

1 part of the events or omissions giving rise to the claim occurred, or a substantial part
2 of the property that is the subject of the action is situated; or (3) a judicial district in
3 which any defendant may be found, if there is no district in which the action may
4 otherwise be brought. See 28 U.S.C. § 1391(b). When venue is improper, the
5 district court has the discretion to either dismiss the case or transfer it “in the interest
6 of justice.” See 28 U.S.C. § 1406(a).

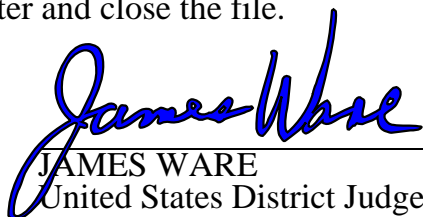
7 It is clear from the instant complaint and the attachments thereto that a
8 substantial part of the events or omissions giving rise to plaintiff’s claims arise out
9 of actions alleged to have been committed at RJD by RJD officials. RJD is located
10 in San Diego, California. San Diego is located within the venue of the Southern
11 District of California. See 28 U.S.C. § 84(d). As a result, venue is proper in the
12 Southern District of California, not in the Northern District.

13 Accordingly, in the interest of justice, the above-titled action is hereby
14 TRANSFERRED to the United States District Court for the Southern District of
15 California. In light of the transfer, this Court will defer to the Southern District with
16 respect to plaintiff’s motion for leave to proceed in forma pauperis (Docket No. 2),
17 motion “to proceed by order as to imminent danger exception,” (Docket No. 9), and
18 motion to appoint counsel (Docket No. 13). Accordingly, the clerk shall terminate
19 as moot Docket Nos. 2, 9 and 13 from this Court’s docket.

20 For the reasons stated above, plaintiff’s motions regarding venue (Docket
21 Nos. 5 & 11) are DENIED to the extent he is requesting this Court to retain
22 jurisdiction in this matter despite it being the improper venue.

23 The clerk shall transfer this matter and close the file.

24
25 DATED: April 7, 2008


JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JIMMIE STEPHEN,

Plaintiff,

v.

R. HERNANDEZ, et al.,

Defendants.

Case Number: CV07-06379 JW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 4/10/2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jimmie Earl Stephen C56483
California Men's Colony State Prison
P. O. Box 8101
San Luis Obispo, Ca 93409-8101

Dated: 4/10/2008

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk